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PLEASE REPLY TO ROSELAND, NJ

March 17, 2014

Writer's Email: CAbatemarco@connellfoley.com

Honorable Nelson S. Román, U.S.D.J.
United States District Court Southern District of New York
United States Courthouse
300 Quarropas Street, Courtroom 218
White Plains, NY 10601

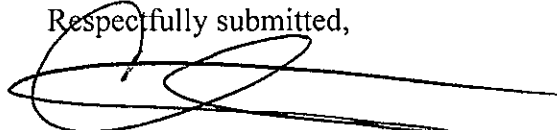
Re: Curran v. Aetna Life Insurance Company, et al.
Civil Action No. 13-cv-00289(NSR)

Dear Judge Roman:

This office represents defendants, Aetna Life Insurance Company and TriNet Open Access Managed Choice Plan, in the above referenced matter. Enclosed is defendants' proposed discovery plan. We have been in contact with counsel for plaintiff regarding the terms of the discovery plan. It was cordially agreed between the parties that each party would submit a separate proposed discovery plan pursuant to defendants' objection to any discovery beyond the administrative record for this ERISA based action.

We thank Your Honor for your kind attention to the above.

Respectfully submitted,



Christopher Abatemarco

Honorable Nelson S. Román, U.S.D.J.

March 17, 2014

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CA/amn

Enclosure

cc: David J. Squirrell, Esq. (w/encl.)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BRIDGET M. CURRAN, individually, and as
natural Guardian of C.F.C., a minor,

Plaintiff,

AETNA LIFE INSURANCE COMPANY,
TRINET GROUP, INC., and THE TRINET
OPEN ACCESS MANAGED CHOICE PLAN,

Defendants.

13-cv-00289 (NSR)

CIVIL ACTION

**PROPOSED DISCOVERY PLAN AND
SCHEDULING ORDER**

Defendants, Aetna Life Insurance Company, TriNet Group, Inc., and the TriNet Open Access Managed Choice Plan (hereinafter “defendants”), state that because this is an action for review on an administrative record, there is no discovery needed or permitted and defendants reserve the right to file a motion to preclude any discovery beyond the administrative record.¹

If the parties cannot agree on the scope of discovery under ERISA, defendants anticipate filing motions and memoranda, with court consent and as appropriate, to determine the limits of appropriate ERISA discovery.

To the extent the court disagrees, the parties propose the following discovery plan. By entering into this discovery plan, defendants do not waive any right to object to and seek preclusion of any discovery requested beyond the administrative record.

1. The Defendants do not consent to motion hearings and a trial before a Magistrate Judge.
2. This case is to be tried by jury.
3. Joinder of additional parties must be accomplished by September 19, 2014.
4. Amended Pleadings may be filed, without leave of court, until September 19, 2014.
5. Interrogatories, limited to twenty-five (25) in number shall be served no later than May 16, 2014, with responses to be provided thirty (30) days thereafter.

¹ In an ERISA benefit denial case ... In a very real sense, the district court sits more as an appellate tribunal than as a trial court. It does not take evidence, but rather, evaluates the reasonableness of an administrative determination in light of the record compiled before the plan fiduciary.” Curran v. Kemper Nat’l Servs. Inc., No. 04-14097, 2005 WL 894840, at *7 (11th Cir. Mar. 16, 2005).

6. Request for production of documents, if any, shall be served by May 16, 2014.
7. Deposition, if deemed required by the court, shall take place by November 14, 2014.
 - A. Unless counsel agrees otherwise or the court so orders, depositions shall not be held until all parties have responded to any first requests for production of documents.
 - B. Depositions shall proceed concurrently.
 - C. Whenever possible, unless counsel agree otherwise or the court so orders, non-party depositions shall follow party depositions.
8. Any further interrogatories, including expert interrogatories, if permitted by the court, shall be served no later than September 24, 2014.
9. Requests to admit, if permitted by the court, shall be served no later than January 30, 2015.
10. Expert reports, if any, shall be served by (no expert reports are anticipated at this time).
11. All discovery shall be completed by January 30, 2015.
12. Any motions shall be filed in accordance with the court's individual practices.
13. This civil case discovery plan and scheduling order may not be changed without leave of court (or the assigned magistrate judge acting under a specific order of reference).
14. The next case management conference is scheduled for _____ at _____ . (the court will set this date at the initial conference.)

SO ORDERED.

White Plains, New York
Dated:

Nelson S. Roman, U.S. District Judge